UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1134
3 April 1996

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1134th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 28 February 1996, at 10 a.m.

Chairman: Mr. BANTON

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GE.96-15450 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Thirteenth periodic report of the Russian Federation (CERD/C/263/Add.9) (continued)

1. At the invitation of the Chairman, the delegation of the Russian Federation took a place at the Committee table.

2. Mrs. SADIQ ALI, supplementing Mr. Wolfrum's presentation with information of her own, said that, according to the International Work Group for Indigenous Affairs, the new legislation for the indigenous peoples of Russia, which the Government had promised three years previously, had not even been prepared as yet, and the traditional rights and special status of those populations had not been recognized. The International Work Group had also observed that the life of the "small peoples" of the north, Siberia and the Far East continued to worsen, not least because non-indigenous persons were taking control of the natural resources (land, rivers and lakes) which were the traditional subsistence resources of the indigenous populations. Those communities had no legal status or right to use their land and resources, and could not compete with non-indigenous businessmen. Moreover, alcohol, which was often a substitute for food, had become a serious threat to indigenous communities; fertility rates had dropped over the previous two years, and the mortality rate attributable to alcohol-related accidents, suicides and homicides had increased.

3. She asked why there had not yet been any constructive programmes or federal laws for to the protection of the rights of indigenous populations and why International Labour Organization (ILO) Convention No. 169 had not yet been ratified.

4. According to Amnesty International, another source of concern was the situation of some asylum-seekers, particularly Afghans, who had been expelled from the Federation and forced to return to their country of origin, where they were very likely to suffer human rights violations. She wondered what progress had been made in developing procedures to determine the status of refugees and in issuing new instructions to officials responsible for dealing with the return of asylum-seekers.

5. She also asked whether action had been taken on President Yeltsin's request to the authorities to commute all death sentences and take steps towards the abolition of capital punishment.

6. Finally, she asked whether there was an election law and how elections, including that of the President of the Russian Federation, were held.

7. Mr. RECHETOV asked how the Convention was implemented in the context of the current situation in the Russian Federation, which was destabilized and experiencing a period of serious crisis, a rising crime rate and violent conflicts. Ethnic minorities seeking control of their territories in the Caucasus had been the victims of discrimination and human rights violations,

even on the part of the agencies specifically responsible for protecting those rights. It was high time for the appropriate authorities to condemn that situation and for the courts to deal with crimes such as incitement to racial hatred thereby translating the spirit of the laws into action.

8. Moreover, the creation of parties devoted exclusively to the protection of religious or ethnic interests seemed neither democratic nor in accordance with the national Constitution. That was an aspect of political life in the Federation which the Constitutional Court would have to deal with.

9. While he did not deny the existence of anti-Semitism and, in particular, the efforts of certain groups to achieve a "final solution" by forcing the Jewish population into exile, he said that even the Jewish organizations with which he had had contact, for example, in London, had said that such anti-Semitism was less widespread than had been claimed.

10. In order to correct in advance a possible misunderstanding regarding the Committee's position on minorities and the right of peoples to self-determination, he noted that the rights of national minorities were one aspect of the right of peoples to self-determination and that secession was not necessarily the way to protect those rights, since autonomy could be exercised in many other ways and in all sorts of contexts.

11. Mr. CHIGOVERA said that the Russian Federation's report provided too little information on the implementation of the laws mentioned therein and on programmes for the protection of the rights of minorities, as a result of which the Committee was unable to make an informed evaluation of the implementation of the Convention in that country. He requested that the next report should remedy that problem, particularly since the Committee had received allegations of discrimination. According to a report published by the United States in 1994, the inhabitants of the Caucasus and Central Asia were victims of discrimination, extortion, harassment and assault on the part of law enforcement officials, with the approval of the public. According to articles on the indigenous populations in the north of the Federation, the situation of those populations was catastrophic; industrialization and the exploitation of their resources had resulted in their displacement and the destruction of their environment. The Novaya Zemlya peninsula, for example, was currently the site of nuclear activities which had driven out both reindeer and human populations.

12. The report also failed to mention the ethnic composition of the population; it was to be hoped that the next report would remedy that problem.

13. Mr. KOLOSSOVSKY (Russian Federation), replying first to the questions concerning the role of international instruments in the legal system of the Federation, said that the instruments to which the Federation was a party were indeed part of domestic law; the Supreme Court had even stated in October 1995 that articles 4 and 15 of the Constitution were in conformity with the principles and norms of international law and that the latter took precedence over the laws of the Federation whenever there was a conflict between them. Such conflicts had arisen, and the Supreme Court had ruled that the courts must respect the obligations resulting from the international agreements to which the Federation was a party.

14. He said that while the public at large might not be fully informed about the international human rights instruments, those instruments had been published and were available in libraries. Every year, on the occasion of the International Day for the Elimination of Racial Discrimination, the media published the relevant convention texts.

15. Mr. ZORIN (Russian Federation), in response to questions on legislation, said that the State Duma was working to ensure the implementation of the broad principles enshrined in the Constitution and to set up a regulatory basis for the Federation's relations with nationalities and minorities. It was also considering a bill on jurisdiction in human rights matters, which was being discussed at great length. A law on cultural autonomy, based on the principle that the exercise of the rights of minorities was predicated on self-determination, was also under consideration; it would provide for the representation of ethnic groups and give them control over their cultural life and education. Self-determination in its various forms also made possible the creation of all types of cultural associations and groups. The proposed legislation was the first attempt under Federation law to deal with the question of nationality except from a purely territorial point of view.

16. The rights of national minorities and the legal status of the indigenous populations and "small peoples" of the Federation were the subject of a bill which reflected International Labour Organization (ILO) Convention No. 169. That Convention would be submitted to the State Duma and Parliament for ratification, although it concerned situations which did not correspond to that of the Russian Federation. The protection of the rights of minorities and populations in the north of the Federation was such an important and sensitive issue that it had been entrusted to a committee established at ministerial level. Both that committee and the State Duma, under whose auspices it functioned, would deal with the social development and legal status of those populations.

17. There were also plans to set up a presidential commission responsible for all problems related to federalism. During the 1993 and 1995 elections, there had been a drop in the representation of minority populations both in the Duma and at the local level. It was therefore proposed to set up an assembly of peoples of the Russian Federation to consider bills and measures for the security and stability of those populations.

18. Mr. CHERNENKO (Russian Federation) thanked the members of the Committee for their comments, which would be brought to the attention of the governmental authorities of his country as Committee recommendations. He said that he would organize the questions which had been asked into two groups: those dealing with minorities and the indigenous populations of the north, and those concerning the problem of rehabilitating oppressed populations, the refugee problem, the conflict between the Ossetians and the Ingush, anti-Semitism and problems connected with the residence permit.

19. Beginning with the first group of questions, he said that the situation of the indigenous populations in the north of the Russian Federation was indeed a complex one and one that could not be separated from the life of the country. In that regard, he said that a special body had been set up to monitor the implementation of State programmes for the socio-economic

development of the indigenous peoples of the north and that a committee had been established to deal with matters concerning those populations. There were 29 indigenous peoples in the north of the Russian Federation - a total of 181,600 individuals living in an area of 11 million square kilometres, which represented 64 per cent of the total area of Russia. To understand the origin of the problem, one must realize that 90 per cent of Russia's natural gas, three quarters of its oil, half of its fishery resources and 36 per cent of its wood production came from that region. Only 6 to 7 per cent of the indigenous populations worked in those sectors, and it was often difficult for them to preserve their cultures and way of life, which had been despised in the past. Numerous measures were being taken to remedy that situation: 300 national schools and over 200 mixed schools offered an education in 17 national languages. A federal bill had established the legal system of the territories in which the indigenous populations lived, and the districts which were part of those regions had been given autonomy.

20. In response to Mr. Chigovera's question, he explained that the Nenets had not been forcibly expelled, but the industrialization of the region had altered the traditional migration routes of the reindeer and had thereby resulted in the departure of some populations. However, compensation would be provided. With regard to the question of mechanisms for the protection of national minorities, there was a federal department within the ministry responsible for questions of nationality, which included various services that dealt with the Nenets and other oppressed populations and worked to ensure the protection of their interests and respect for their fundamental rights.

21. Speaking on the realization of the rights of the nationalities and minorities of the Russian Federation in the fields of education, culture and religion, he stressed that 12,883 schools offered education in a number of national languages such as Armenian, Georgian, Ukrainian, Turkmen and Azerbaijani. Education was not offered in Kyrgyz, Moldovan or Uzbek because there had been no request for it from those nationalities. However, education was being offered on an experimental basis in the Gypsy language.

22. In response to Mr. Wolfrum's question on discrimination based on religion, he said that all the religions in the Russian Federation faced the same problems. In response to Mr. Garvalov's question on the existence of political parties based on religious belief, he said that there were no restrictions on the formation of political parties of that type and gave the examples of the "Muslim Union" and "Union of Assyrians", both of which had the status of political parties. Anti-Semitism was not a serious problem in Russian society, despite the statements made in certain sociological studies of dubious accuracy. There were Jewish organizations in over 65 cities; Jewish universities had been established, Jewish newspapers were published in the principal cities of the Russian Federation and there was a Jewish theatre group in downtown Moscow. Jewish emigration from Moscow and St. Petersburg had lessened as a result of the stabilization of living standards in those two cities.

23. With regard to the refugee problem resulting from the conflict between the Ossetians and the Ingush, he said that Russia had a law on refugees, under which a refugee was defined as anyone wishing to enter the Russian Federation without having that nationality or wishing to leave his or her country of

origin to escape acts of violence or persecution of a discriminatory nature. The problem of refugees and displaced persons in Russia had taken on unprecedented proportions. There were large numbers of refugees (approximately 1 million) in Russia as a result of the many ethnic conflicts in the territories of the former Soviet Union, particularly in Armenia and Azerbaijan. Over the past six or seven years, more than 2.7 million Russians had been forced to flee the former Soviet Union, where they had been living, and to return to Russia to escape xenophobia. A federal office of migration was responsible for dealing with all refugees. In principle, any Russian citizen, or anyone with refugee status, had the right to obtain or purchase housing in the Russian Federation, provided that housing was available in the region in question. The necessary authorization was issued by the office responsible for granting residence permits. However, only persons legally residing in the territory of the Russian Federation had a right to free municipal housing. That restriction had produced xenophobic reactions in many non-Russian Muscovites such as Tartars or Georgians, who were forced to live in communal housing and had no possibility of any other type of housing.

24. The conflict between the Ossetians and the Ingush dated from the time of Stalinism, when whole populations, not only the Ingush or the Chechens, had been displaced. Those populations had begun returning home in 1957 and, since the late 1960s, there had been no obstacle to their return. Numerous texts having the force of law had been adopted in 1991 and 1992 to provide for the return of various populations to their lands, but had only aggravated the conflict between the Ingush and the Ossetians. The federal authorities had then taken compulsory measures to restore the rights of the two populations which were parties to the conflict. A contingent of federal troops had intervened in an attempt to contain the conflict and to eliminate the risk of destabilization of the region.

25. Mr. DAVYDOV (Russian Federation) said that there were few prosecutions for incitement to racial or national hatred in the Russian Federation. He nevertheless deplored the lack of professional training for judges in that field. In 1995, the Procurator's Office had examined 37 criminal cases involving offences under article 74 of the Penal Code of the Russian Federation. Of those 37 criminal cases, 8 were still under examination and 11 had been dismissed, and in the 12 others no further action was to be taken.

26. Mr. DEMIDOV (Russian Federation), in response to Mr. Wolfrum's request for information on the practical implementation of the norms of international law in Russia, said that under the Constitution of the Russian Federation, the norms of international law took precedence over the provisions of national legislation. Under article 15 of the Constitution and article 5 of the federal law on international treaties, if there were no national provisions, or if the existing provisions conflicted with those of international law, the courts were required to implement the latter. Moreover, many norms of international law (particularly those which dealt with racial discrimination in the workplace, in regard to social protection, etc.) had been not only strengthened but expanded in the Russian Constitution and law over the past few years.

27. With regard to police custody, the Code of Criminal Procedure currently included complaint procedures for cases of wrongful arrest or detention. During the first half of 1995, the courts had heard over 34,500 such complaints. Moreover, the Supreme Court had ruled that, under article 9 of the International Covenant on Civil and Political Rights, anyone arrested or placed in custody must be brought before a judge as quickly as possible.

28. The independence of the judiciary was a very important question. Under article 120 of the Russian Constitution, judges were independent and must be guided only by the Constitution of the Russian Federation and by federal law. Supreme Court justices were nominated by the President of the Federation and appointed by the Federation Council. The judges of the other federal courts were appointed by the President of the Federation. There were provisions to protect judges from any interference in the exercise of their functions and to ensure material and social conditions in keeping with their position. Despite all of those guarantees, irregularities sometimes occurred and, in 1995, 53 of the approximately 20,000 judges in Russia had been dismissed from their posts. With regard to the democratization of legal proceedings, the essential point was the principle of the confrontation of parties; that principle was already established in civil procedure and it was to be hoped that it would also be embodied in criminal procedure.

29. The Russian Academy of Law was responsible for the training of judges. For several years, the legal training programme had attached special importance to the disciplines that dealt with the application of the norms of international law. In February 1995, the Academy had hosted a seminar on the independence of the judiciary, in which 16 high-level foreign experts and several dozen Russian judges had participated and various international instruments had been studied.

30. Judicial reform, of which Mr. de Gouttes had spoken, was a large and extremely complex issue, particularly in view of the financial problems which it posed. Nevertheless, a new Constitution had already been adopted and, in October 1995, the general outline of the proposed reform of the judiciary had been drawn up. A constitutional court and an Arbitration Tribunal had been established. A law would soon be adopted to guarantee the implementation of the provisions of article 22 of the Constitution, under which the courts, rather than the prosecutor's office, had sole responsibility for measures of arrest and pre-trial detention. The current priorities were the adoption of a new Penal Code, a new Code of Criminal Procedure and a Land Tenure Code.

31. The issue of capital punishment, raised by Mrs. Sadiq Ali, was perhaps the most important of all. That sentence was very rarely handed down and, under article 23 of the Penal Code, could not be imposed on women, minors or men over the age of 65. The death penalty was only rarely carried out and was usually commuted to a life sentence.

32. Mr. DAVYDOV (Russian Federation) informed the Committee that the Office of the Procurator had been established, and carried out its functions, under a federal law adopted on 17 November 1995. Its judges and staff were of various nationalities, and its primary task was to protect the rights and interests of citizens. It had considered over 241,000 cases in 1995.

33. The situation in the Chechen Republic remained very difficult. Although 5,043 offences had been reported there in 1995, including many cases of murder, assault, looting and economic crimes, the work of the investigative branch of the Office of the Prosecutor of the Chechen Republic was clearly not satisfactory. In addition, the Military Prosecutor's Office was currently investigating acts committed against the local population by members of the armed forces.

34. Several violations of the right of citizens to choose their place of residence had been reported in various parts of the northern Caucasus; those cases included discrimination in the issuing of internal travel permits and visas and the imposition of residence requirements. He also recalled that, after the Chechen attack on Budennovsk in 1995, the local authorities had decided to expel the Chechens from the city, but that decision had subsequently been revoked by the Procurator.

35. In response to a question from Mr. Wolfrum, he said that, in all the years that the Russian penal system had been in operation, the Office of the Procurator had not received any complaint of racial discrimination or of racially motivated intimidation or human rights violations. Lastly, he said that the number of officials convicted of acts committed in abuse of their functions had been 1,444 in 1994 and 1,591 in 1995.

36. Mr. ZORIN (Russian Federation), speaking on the question of Chechnya, thanked the Committee for its support of the Russian Federation in its battle against terrorism and its struggle for the unity of the Federation. He recalled that in 1991, the Supreme Council of the Russian Federation had declared the Dudaev regime to be illegal and that in July 1995, the Constitutional Court had confirmed President Yeltsin's decision to restore constitutional order in Chechnya. It had also ordered the full implementation of the provisions of the Protocol Additional to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts. Wishing to achieve a compromise, the federal authorities had concluded a military agreement with the Chechen rebels which, if it had been respected by the separatists, would have paved the way for a peaceful solution to the conflict.

37. It must also be recalled that elections had been held in Chechnya in October 1995 and that, currently, almost all the country's internal organs were functional, including the Duma and the Supreme Court. Moreover, early in 1996, the 113,000 retirees living in Chechnya had begun receiving their pensions. Pursuant to a decision of the Constitutional Court, the Ministry of Social Security had unfrozen 170 billion roubles to compensate the victims of the conflict. An additional 221 billion roubles would be allocated to provide material and financial assistance to the approximately 200,000 displaced persons who had had to flee the fighting.

38. Two committees had been established to consider ways of resolving the crisis. To that end, the Russian Federation was willing to engage in dialogue with all those who wished to re-establish peace and was prepared to accept compromises, provided that the Chechen Republic remained part of the Federation and that the safety of its citizens was guaranteed.

39. The Russian Federation and the Chechen Republic had recently signed an agreement which stated that it was essential for the Republic to have a special status within the Russian Federation. The agreement also stipulated that the Republic could conclude agreements with other entities of the Russian Federation, establish cultural and economic relations with other States and, in cooperation with the armed forces of the Federation, effect the disarmament of illegal armed groups. It also included a series of measures for setting up a dialogue among all parties to the conflict.

40. A presidential and parliamentary commission had also been established to examine human rights violations in Chechnya. After visiting the region, it had recommended to the Procurator-General of the Federation that there should be increased monitoring of armed activity in Chechnya. There were also plans to set up an interministerial committee to coordinate the activities of all of the agencies working for a solution to the Chechen crisis.

41. Mr. KOLOSSOVSKY (Russian Federation) said that in the summer of 1995, the Russian Federation had offered General Dudaev a three-point plan for resolution of the conflict involving the cessation of military activities, the holding of elections, and the holding of negotiations on the future status of the Chechen Republic. Since General Dudaev had required the Russian Federation's acceptance of the independence of Chechnya as a precondition for any negotiations, the talks had been broken off.

42. With regard to cooperation between the Russian Federation and intergovernmental and non-governmental organizations, he explained that a dozen such organizations, including the Organization for Security and Cooperation in Europe (OSCE), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), Médecins sans Frontières and the International Committee of the Red Cross (ICRC), were represented in Chechnya. ICRC, for example, had visited prisoners held by the federal authorities.

43. With regard to the question of the international treaties to which the Russian Federation was not yet a party, he said that his country was expected to ratify the European Convention on Human Rights in March and the European Framework Convention for the Protection of National Minorities before the end of 1996. In that regard, he explained that the Convention Guaranteeing the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities, prepared within the framework of the Commonwealth of Independent States (CIS), had already been ratified by the Russian Federation and would enter into force as soon as a sufficient number of States had ratified it.

44. The Russian Federation also favoured the establishment of a permanent international criminal court and would soon ratify the amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination.

45. With regard to the Afghan citizens who had been expelled from the Russian Federation, he explained that the Federaticn authorities had examined their case with UNHCR in the light of the Convention relating to the Status of Refugees and that the Afghans had repeatedly refused to apply for refugee

status. Many of the Afghans who had been expelled had returned to the territory of the Russian Federation in violation of the laws currently in force.

46. In conclusion, he said that the Russian Federation was working to build a State subject to the rule of law and to combat xenophobia, which was partially a consequence of the country's severe economic problems and the sense of frustration felt by part of the population. In particular, Russians were very concerned by the situation of Russian speakers living in States which had been part formerly of the Soviet Union and whose civil, political and cultural rights were threatened. The delegation of the Russian Federation hoped that the Committee would be as demanding with those States as it had been with the Russian Federation with regard to violations of the rights of minorities. Lastly, he assured the Committee that the Government of the Russian Federation would give due consideration to the Committee's recommendations and criticisms.

47. Mr. WOLFRUM (Country Rapporteur) thanked the delegation of the Russian Federation for the copious information it had provided to the Committee and said that he particularly welcomed the creation of a body responsible for protecting the rights of minorities and the adoption of laws to protect them. With regard to the conflict between Ingushetia and North Ossetia, he hoped that the Russian Federation would ensure that legal norms were fully applied there and would make it possible for the displaced persons to return to their places of origin and recover their property in accordance with the general recommendation which the Committee had adopted on the matter. It was also essential for the Russian Federation, as a constitutional State, to continue its efforts to impress on judges, members of the armed forces, the police and civil servants the importance of the rule of law.

48. With regard to the situation of Russian speakers living outside the borders of the Russian Federation, he reminded the delegation of the Russian Federation that under article 11 of the Convention, if a State party considered that another State party was not giving effect to the provisions of the Convention, it could bring the matter to the attention of the Committee and the Committee could ask the State in question to submit to it an explanation of the matter and to indicate what measures, if any, it had taken to remedy the situation.

The meeting rose at 1.05 p.m.